PROPERTY IN THE TERRITORIES.

SPEECH

OF

HON. BENJAMIN F. WADE,

OF OHIO.

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The Senate resumed the consideration of the following resolutions, submitted by Mr. BROWN on the 18th of January:

"*Resolved*, That the Territories are the 'common property of all the States, and that 'it is the privilege of the citizens of all the 'States to go into the Territories with every 'kind or description of property recognised by 'the Constitution of the United States, and 'held under the laws of any of the States; and 'that it is the constitutional duty of the law-'making power, wherever lodged, or by whom-'soever exercised, whether by the Congress or 'the Territorial Legislature, to enact such laws 'as may be found necessary for the adequate 'and sufficient protection of such property.

"*Resolved*, That the Committee on Territo-'ries be instructed to insert, in any bill they 'may report for the organization of new Ter-'ritories, a clause declaring it to be the duty 'of the Territorial Legislature to enact ade-'quate and sufficient laws for the protection of 'all kinds of property, as above described, with-'in the limits of the Territory; and that, upon 'its failure or refusal to do so, it is the admitted 'duty of Congress to interpose and pass such 'laws."

The pending question was on the amendment offered by Mr. WILKINSON, to strike out all after the word "resolved," where it first occurs, and insert:

"That the Territories are the common prop-'erty of the *people* of the United States; that 'Congress has full power and authority to pass 'all laws necessary and proper for the Govern-'ment of such Territories; and that, in the 'exercise of such power, it is the duty of Con-'gress so to legislate in relation to slavery 'therein that the interests of free labor may be 'encouraged and protected in such Territories.

"*Resolved*, That the Committee on Territo-'ries be instructed to insert, in any bill they 'may report for the organization of new Terri-'tories, a clause declaring that there shall be 'neither slavery nor involuntary servitude in 'such Territories, except in punishment for 'crime whereof the party has been duly con-'victed."

Mr. WADE. Mr. President, these resolutions bring up at once before the Senate two distinct and opposite systems of labor and civilization. The resolutions which are proposed by the Democratic portion of the Senate declare in favor of that one of those two systems which, in my judgment, is subversive of the melioration and progress of human society on this continent. The public mind, North, South, East, and West, is intensely engaged in making its choice between that system and the scheme of civilization which is asserted by the resolutions submitted by the Republican side of the Chamber. I cannot, therefore, exaggerate the importance of this debate. It is a very extraordinary thing, Mr. President, that the loudest complaints of mal-administration of this Government, and the noisiest alarms of imminent danger to the country, come from those who, for a very considerable period, have had possession of its vast revenues, control of its mighty power, influence of its agents and clients, equally at the capital and in every nook and corner of the land, and so have formed and directed its policy, without encountering any effective resistance or opposition. The Republican party has been always, as it is now, absolutely powerless to impress its principles on the administration of the Government. It stands by and looks on, wondering at the progress of Democratic administration; and wondering, most of all, at hearing those who have conducted it entirely in their own way now threatening to pull down the pillars of the Union, and involve them all, with themselves, in a common ruin. In the name of God, Mr. President, what does all this mean? There is but one explanation of facts so strange and anomalous; and that explanation is, that you still want to continue the administration, when you have found out

that you cannot administer successfully, or even with safety, for your own system.

Mr. President, if there is a Senator here who will gainsay me in my next preliminary observation, let him now look me full in the face and deny, if he can, that his section has had its full share of political power in this country, from the hour when the Government was organized until the exact moment when I am speaking. More than this, your power in the Government has been altogether disproportioned to your numbers. I blame nobody for this, because I know that it is human nature to use all the power we have for the advancement of our own principles, our interests, and our accepted policies. Undoubtedly, under similar circumstances, we of the North would do the same; therefore I do not complain, but simply state the fact.

If, now, the present course of administration of the Government has so far proved a failure that you are now prepared to pull it down over our heads, pray tell us who is to blame but yourselves? Sir, it is very manifest, from the confessions of the complainants, that they have no present or real cause of complaint. The secret really is, that uprising political principles, which they are no longer able to keep down, cast a shadow across their path which disturbs their equanimity.

The Senator from Georgia [Mr. TOOMBS] told us that the South is in possession of eight hundred and fifty thousand square miles of country, the most genial and beautiful that God ever bestowed upon men. He said that he was proud of it; and he has a right to be. He said that this fine region is capaable of sustaining a population greater than that of all Europe. I believe that he spoke within bounds. He told us that that region has twelve million people; mark you, sir, only twelve million. But we all know that the area of the slaveholding States is greater by about one-third than that of the free States, while its population is at least one third-less. He spoke glowingly of the prosperity of the slaveholding States. What, then, could be more unreasonable and absurd than these whinings and complaints of Northern aggressions and oppressions by the great and prosperous South, when the North is entirely out of power? If he speaks relatively, then he speaks correctly. Property in slaves was never so prosperous as to-day. Look into the slave market; you will find that slaves never brought higher prices than now. Of course, slave labor is more profitable to the owner now than it has ever been. Sir, these Southern gentlemen are inconsistent and contradictory; in one breath they are all boast and glory, in the next it is all despair and destruction. Please reconcile some of these contradictions.

If the North has, by means of its underground railroads, fatally and treacherously sapped and undermined the foundations of your whole system of labor, how is it that your property has risen in value, and your prosperity culminated during all the time it has been going on?

One other preliminary remark, Mr. President. The Senator from Georgia rose here in his place, with a solemnity unusual for him, and with a countenance which was the very personation of despair, and announced to an astonished people, that we, the Senators on this side of the Chamber, are the enemies of his country. Yes, sir; he felt that we are enemies of his country, and therefore that power would be unsafely and dangerously lodged in our hands. Why, sir, would it be unsafe and dangerous? Certainly they have suffered no damage from us, so far. He argues after this fashion: he complains that we have been faithless in the execution of his fugitive law, and *therefore* the slave property of the South is insecure; but you will remember, sir, that, long before he got through with his speech, the slaves in Georgia were so loyal to their masters, that, from the days of the revolutionary war to the present time, not one hundred of all their black generations have fled from bondage. Sir, if there are those whose nature is so grateful that they can thank you for nothing, there are others whose nature is so discontented that they will complain upon very trifling cause. Only one poor negro a year, in eighty years, has escaped from the great State of Georgia; and yet he trembles with rage, declares war, and lays hold upon the pillars of the Union. One poor negro a year, and even that negro not certainly lost through the Abolitionists or the aggressions of the North. The Senator does not condescend to tell us how any or all the hundred have been spirited away, but is content with boasting that all who have been lost, from all causes whatever, do not exceed a hundred.

Mr. President, when gentlemen come here and volunteer such arguments as these, it is perfectly evident that there is some motive stronger than any consciousness of injury received at the hands of those they accuse. The Senator from Georgia [Mr. TOOMBS] seems to have been specially assigned to act as attorney general; and he has brought in a bill of indictment, charging upon the Senators on this side of the Chamber pretty much all the crimes known in the calendar. It is an indictment interspersed with something of argument, more of declamation, and yet more of vituperation. Now, sir, I acknowledge him to be well and worthily assigned to this duty, for he is one of the ablest and most experienced members of the Senate. If a case could be made out at all against the North, he is just the man to make it out. I have already conceded his ability. All who heard his speech will admit that he does not lack the necessary zeal. If he has failed, he may say, with another noted character, that he "fell where Satan could not stand." [Laughter.] Sir, he has failed—utterly, totally failed. I pass by, for the moment, the im-

peachments of treason and perjury, to reach another, namely, an impeachment of cowardice—an impeachment which I confess grated more harshly on my ear than all the other vituperations in which he indulged.

The Senator from Georgia said that we, the Republican Senators here, "and the untold millions we represent, have fallen so low, that we have not only lost our virtue, but with it we have lost our courage, so that we have not the spirit to resent an injury." Did the Senator believe the declaration which he made? If he did believe it, and I have no doubt he did, from the tenor of his language, he believed that on this side of the Chamber we were all non-combatants. I will not suppose that he intended to earn a cheap reputation for valor, by insulting those who he supposed would never accept a challenge. Mr. President, the whole world knows, and therefore the Senator from Georgia must know, that the people of the free States of this Union have utterly condemned, repudiated, and abolished, the old and barbarous practice of duelliug; every intelligent man knows, and therefore the Senator from Georgia knows, that if a Senator here from either of these States should engage in a duel, he would, for that cause alone, whatever might be his excuse, be deserted and proscribed; that he would be treated as an outcast; while, if he should kill his adversary, he would be subjected to indictment and trial for murder, and would forever be excluded from all public trust of honor or profit. This tone of high moral sentiment is just and righteous in itself, and I do not mean to gainsay it now; but I do feel that it has placed me at a disadvantage here. I feel it frequently, I feel that it often places all of us here at the mercy of those who, not having adopted the same just sentiments, act towards us as if they construed our constrained forbearance into a want of courage. Our Northern people have no reason to distrust the courage of any portion of their fellow citizens. Physical courage, with our Northern people, is a sentiment so general, that I must say that it is cheapened by its universality. No man suspects another to be a coward; for it would be an exception to almost a universal rule. Who ever has seen the Northern people called into the field of combat to maintain their rights, and not known that braver men never stepped upon the quarter-deck, braver men never entered the perilous breach? Who ever heard of a coward among them all, where duty calls? Sir, we on this side, if I understand the Senator from Georgia, and the untold millions whom we represent, have not the courage to maintain our honor. Even if I thought that——

Mr. TOOMBS. I refer the honorable Senator to my speech. I made no such allegation against the people of the North. I said that people who did not maintain their obligations, (and I was alluding especially to the Republican party,) people who would violate their compacts, were not to be dreaded when they threatened to march down their millions upon us. The speech is in print. There is no such allegation against the people of the North; but the gentlemen seem to consider themselves the people of the North, and I do not. That is the difference between us.

Mr. WADE. Here is precisely what the Senator did say: I may construe it differently from him, perhaps. Let us see what was his language:

"I doubt if there be five, out of all the mem-
' bers of the Republican party on this floor,
' who will stand up here to-day, and say they
' are willing, either by State or Federal legisla-
' tion, or in any other manner, to uphold and
' comply with this provision of the Constitution.
' I do not believe there are enough to meet
' God's final requisition to save Sodom. No,
' sir; they mock at constitutional obligations,
' jeer at oaths."

A little further on he said:

"They place great reliance on this arm of
' the Black Republican phalanx, [alluding to
' the slaves, I suppose.] When they get ready
' for this brotherly work, in the name and be-
' half of my constituents I extend to them a
' cordial invitation to come down to see us.
' But it is due to candor to say that their repu-
' tation needs some building up among my
' constituents. We do not think those men
' the most dangerous who are the most faith-
' less to their compacts; and, in very truth, we
' have but small fear of men, even as leaders of
' untold millions, who have not manhood enough
' to maintain and defend their own honors."

I supposed that the leader was as courageous, at all events, as those he led. That was the construction that I put upon it. I supposed that it was a declaration that we, and those whom we represent, lacked that courage which is necessary to maintain our own honor when it is impeached. If the gentleman says that was not——

Mr. TOOMBS. I call the Senator's attention to this: I said that those persons who were faithless to their compacts, who passed personal liberty bills, were not to be dreaded; and there is no other construction, I think, to be put on the language fairly, though the Senator can give it what construction he pleases.

Mr. WADE. I accept the gentleman's construction of it. I put a much larger construction on it than that; but I am very glad to hear the Senator's explanation, because I see that it is no particular merit to us, nor to the gentlemen on that side, that we generally have physical courage. We inherit it from our heroic ancestors, who, when occasion required it, dragged guilty kings from their thrones, and deprived them of their crowns, because they undertook to trample upon the rights of the people; and we, their descendants, I trust in God, are as ready to vindicate, not only our

honor, but our rights, as were our ancestors at any period.

I do not differ widely with the Senator on one point. The man who would be faithless to his obligations, and would commit perjury, I think would be very apt to be a coward; but on the subject of duelling, I do not wish to be misunderstood either here or by our people at home. I agree with them, that it is a barbarous mode of settling difficulties at best, and ought to be totally unnecessary in the advanced stage of civilization to which we have arrived in this country. The restraints of civilized life with us are generally sufficient, and they ought to be always sufficient among us, to oblige every man to suppress violent utterances and to keep within bounds of moderation and respectful consideration of the rights and feelings of others. The case may be quite different in semi-civilized communities, where there are no such other restraints. I do not know but the duel may be necessary there. In any community, if a man cannot be restrained from offering insult by any more elevated principle than fear, it may be necessary that he be compelled to respect the rights of others, even by the fear of combat. And I do not say that I should not, in an extreme case, maintain my own rights in that barbarous way here, whatever might be thought of it at home. I have said enough, Mr. President, I trust, on that point.

The Senator charges us all with perjury and disloyalty to the Constitution. Just see, now, how inconsistent a gentleman, in the heat of argument, may become. He has taken here an oath to support the Constitution; the same oath which we have taken, and which he accuses us of breaking; and yet he announced to us that he is impatient—nay, eager—for a symbol of war from the Old Dominion against the Constitution and the Union. I do not use his exact language, though I have it before me. He is ready and eager to second her motion. "One blast from her bugle horn," he said, "would call to their feet a million of men." A million of men, sir! A million of men for what? Why, a million of men to topple down the pillars of this Republic, and overwhelm the whole country in one universal ruin.

And all this the million of men roused by the bugle horn of the Old Dominion are to do next March, if a Republican shall be elected, constitutionally elected President, in November. Does he not stand on high ground, sir? I ask him to say, for himself, that he occupies high vantage ground, while charging us with treason and violation of our oaths, when he is with the same breath threatening to pull down the pillars of the Union. Sir, if this is not treason, then I do not know what it is. If it is not a violation of the oath to support the Constitution, then I do not understand the import of the words. I know, indeed, that these things are said in the heat of debate, and may mean but very little; but they go out to the world as deliberate debates, and therefore must be noticed here.

And now I dismiss this point, and pass from the declamation to the argument of the gentleman from Georgia; for, as I have said, he is among the ablest of his class. No man is more competent to make out a case against the Republicans or the people of the North. He has deliberated long; he has studied deeply, not merely in the history of ancient and modern Europe, but even in the history of ancient Greece, to fortify his argument. What does his accusation amount to? First, we have not been quite nimble-footed enough in executing his fugitive law. He gives us not one instance, not one case of delinquency. He is content with making a general charge, that we are faithless to the Constitution in this respect. Now, sir, I know of no case of resistance to the execution of the fugitive law in the State of Ohio. I know a great many men there who believe, before God and man, that it is unconstitutional, yet I know of no man who has stood forth to resist its execution. On the contrary, whenever a case under it has come before our courts, it has been carefully scrutinized, and the law has been most rigorously executed. There have been doubtful cases; there have even been cases in which there was little room left for doubt that the seeming remedies granted by that law have been perverted to the atrocious purpose of kidnapping and carrying freemen into slavery.

A citizen of Ohio, not long ago, whose name I do not now recollect, was taken to St. Louis, and there imprisoned under State law, to be sold into slavery to pay the charges of his detention, until he was released by the people of Ohio. This was no solitary case; such cases frequently occur. I meet the general charge with a general denial, and I assert, that the people of Ohio have not been faithless in the execution of this most rigorous, odious, and, as I believe, in many of its provisions, unconstitutional law. I pass briefly over the point that the constitutional provision concerning fugitives devolves on the State Governments, and not upon Congress, the courts having adjudicated that point against my opinions. I will say, however, that no lawyer would agree with the courts, were it a case of the first impression. I deny, moreover, that the decisions of the courts have been uniform, as the Senator from Georgia claims. Judge Hornblower, of New Jersey, on *habeus corpus*, held the law unconstitutional, and discharged the fugitive for that reason. We have one Senator among us here [Mr. WIGFALL] who thinks that the late Mr. Webster knew less of constitutional law than most other men. It is not for me to re-establish Mr. Webster; but whether he knew much or little, it was his deliberate opinion, that the law had no warrant in the Constitution, though he deferred to decisions of the courts.

I come now to your new fugitive bill, which, in

many of its provisions, I have no doubt is unconstitutional; and I think in these points it has not yet been judged constitutional. It is not, however, my purpose to argue its constitutionality. I meet in this case, as I did in the law of 1793, the vague charge of unfaithfulness on our part with a general denial. I call your attention, sir, to the fact that there prevails among the people very generally an idea that many of the provisions of that law are unconstitutional. This idea tends to produce irritation. Why do the people adopt the idea that it is unconstitutional? The subject being collateral, I will only allude to that section of the law which confers judicial powers on commissioners appointed by the courts, who are not, and cannot, thus appointed, be judges. The people believe this provision unconstitutional, and so do I.

Again: the bill gives ten dollars for a decision in favor of the claimant, and five for a decision in favor of the fugitive. Gentlemen here have ridiculed the idea that such an inducement could bias the magistrate, but I believe with the people that such magistrates as you generally have, under this law, would be determined by a thirtieth part of the fee that was paid Judas Iscariot for like services. The people, for what I know, may think this provision unconstitutional. I agree with them so far as to say, that if meanness in a law could make it unconstitutional, the people are right.

Again, there is another provision in the law: when you have got the certificate of the magistrate, the alleged fugitive can be taken out of the State in defiance of the writ of *habeas corpus*. Thus the law, in time of profound peace, strikes down this great writ of freedom, and in this I also agree with them. The law not only denies the writ of *habeas corpus*, but it also denies the trial by jury—an essential right. It is these portions of the law that render it so odious and unpopular. The people know that its execution is attended with dangers to human freedom, and they are jealous of summary proceedings so extraordinary and unusual.

Sir, we have never denied the obligation of the States to deliver fugitives who are such within the purview of the Constitution of the United States—never, never. But the law is an exceedingly offensive and obnoxious law. You know that without my telling you. The people of the free States are deeply imbued with the sentiment that, under the Constitution and laws of the United States, as under the law of nature, every innocent man has a right to liberty. They do, however, well know, and so understand, that the Constitution of the United States permits a man in one State, who is held by the laws thereof to owe service or labor to another man, to be reclaimed when he flees from such obligation, to be delivered up to such claimant. This provision of the Constitution our people neither deny nor resist. But the Senator from Georgia, and every other Senator, knows how difficult it is to execute a law which goes against the hearts and consciences of the great mass of the people. We may complain of it; we might even deplore it; but no law-making authority could mend the case. Nothing short of the interposition of Almighty power, changing the hearts of men, can make them prompt and eager to execute your obnoxious law.

I do not stand here to deceive you, my friends. I tell you the truth just as it is. Out of every thousand men who shall see a race between a claimant and a slave, nine hundred and ninety-nine will, from the bottom of their hearts, wish him to escape. Neither you nor I can help the matter by legislation. Acting as magistrates sworn to execute the law, it may be executed when a case is completely made out, beyond all chance for casuistry or cavil; but very little practical benefit can result from it. Who is to be blamed for it? Look at your own section, and you find there human nature exactly the same, when the slave trader brings the slaves stolen from Africa into your ports in violation of the laws making the act piracy, and denouncing against it the punishment of death. Your jurors acquit him against all evidence and the admonitions of the courts. The innocent men thus stolen from Africa, and thus brought into your States, are irreclaimably sold in your markets; ostentatiously advertised, and sold at your agricultural fairs. I assert, then, that the slave pirate goes abroad with impunity in your States, because your magistrates cannot execute the law. With what face, then, can you stand here, and accuse us of not being swift-footed enough in executing a law which is a greater abomination to us than the laws abolishing the African slave trade can be to you?

Mr. President, there should be a little reason and common sense exercised in these cases. I do not care if every judge and every marshal may be ever so eager to execute your law; if the hearts of the people, I say again, are opposed to it, who is to blame for that? If there is any blame, it is on Him who moulded the hearts of men. Your law can give you no remedy. You may multiply its penalties; you may make it bristle all over like a porcupine with penalties; it would be of no service to you; because, although when you get a case you may execute it under the oaths of your magistrates, ninety-nine times in one hundred, the people being against you, the fugitive will find a way to escape in precisely the same way that your pirates, who bring men from Africa and sell them in the market, constantly escape with you. Now, sir, I would have just as much ground to stand here and accuse the whole South of being guilty of perjury, and guilty of the most manifest violation of all law, because the victims of the Wanderer were not released, and the officers of that vessel condemned and exe-

cuted, as they deserved to be, as you have to stand forth and say that we on our part do not execute laws equally and far more odious to us.

The next accusation, and the strongest one, of the Senator from Georgia, is, that we pass what he calls personal liberty bills, which were, as he claimed, in violation of the Constitution of the United States; and he said that the State of Ohio occupied the same position with the other free States in that particular. Well, sir, as he placed Ohio upon the same ground with the others, I have not taken pains to examine the action of the others, trusting that if there was no foundation under heaven for the charge he made against Ohio, it was equally groundless against the other States. I say, then, to that Senator and the Senate, that the State of Ohio has never passed a law in violation of the Constitution of the United States; that it never has been derelict in its duty in this respect. Does any Senator here suppose that a sovereign State in this Union is going to relinquish all her right of protection over her citizens, because there is a provision of the Federal Constitution by which a certain class of individuals may be taken out of the State? That would be to abandon every individual to the ruthless claim of any unprincipled man who sought to claim him. Cannot a sovereign State of this Union prevent the kidnapping of her free citizens, because you have a right to claim a slave fleeing from service?

The Constitution of the United States does indeed say that the escaping fugitive shall be given up. But it does not prescribe how the fact that he owes service shall be ascertained; and the Constitution of the United States does not mean that any freeman of a State shall be given up as a fugitive. Now, I appeal to the candor of the Senator from Georgia. He has read with great care the proceedings of the Federal Constitutional Convention. He knows the jealousy concerning State rights that pervaded that body. Does he believe that its members would have ever consented to a provision which would have deprived the States of the power to protect and defend their own citizens? No, sir, never.

You are continually repeating the assertion that this fugitive slave law provision was deemed an important one by the fathers, and that the Union could not have been effected without it. On the contrary, sir, it was a mere afterthought. The Constitution was complete, in all its important provisions, before any man thought of this thing. It was put into the Constitution with very little deliberation; and those who put it there had no idea that, in doing so, they were taking away from the States the most important element of sovereignty — namely, their power to protect their own citizens against unlawful seizures and searches and extradition. The rights of the States, the only protection made against overpowering and concentrated despotism, were the one especial object of preservation. The States battled inch by inch against the surrender of any State power. I judge, therefore, that they never intended to confer upon Congress, or upon any one State, or anybody, a right to enter another sovereign State, and take away, in a summary and arbitrary manner, whomsoever he should choose to claim as a fugitive from another State.

But the Senator said that the free States, and Ohio among the rest, have committed a kind of perjury in disregarding your fugitive law, by passing personal liberty bills. So far as the law of Ohio is concerned, we shall see how plain a tale will put down his argument. Her law consists of three sections. The saving clause of the last section prevents any such construction as the Senator himself put upon the statute. It is entitled "A law to prevent slaveholding and kidnapping in Ohio." The last section declares:

"Nothing in the preceding sections of this 'act shall apply to any act done by any person 'under the authority of the Constitution of the 'United States, or of any law of the United 'States made in pursuance thereof."

Now, I ask the Senator from Georgia, if he was upon the bench, and a fugitive from labor or service in another State was brought before him, under the provisions of this law, would he find any difficulty in surrendering him into the hands of the person who had made out his claim to his service? Would he say that the preceding section of this law overruled this explanatory clause, and that he was bound, at all events, to trample the Constitution under foot? No, sir; he would give it no such construction as that.

Mr. President, I say in all sincerity and earnestness to every man who holds to the conservation of State rights, that you endanger the rights of your own State, you endanger the liberties of this whole nation, when you contend against the power of the States to pass laws protecting their own citizens from unlawful seizures and kidnapping. At all hazards, neither asperity of language, nor a frowning brow, nor violent denunciation, will ever induce the State of Ohio to forget what belongs to her sovereignty, what is due to her honor, and the protection of her own citizens. She takes no prouder position on this subject than, I hope in God, every other State in the Union does. Then the Senator was wrong, he was uncandid, to stand forth and say that our constituents are perjured, that they are traitors, that they have violated the law of the land, when they had taken every precaution to award to the citizens of other States, holding a species of property that we utterly repudiate, all their rights.

The State of Ohio sends no Senators here to denounce the sovereignties or people of other States; but when her rights are disputed or her honor assailed in this high council, her ambassadors here would be unfaithful to their

trust if they did not hurl back such unjust imputations.

The third count in the Senator's indictment is, that we intend to prohibit slavery in the vast Territories of this Union. That charge, I confess, is true. We do so intend. If I understand the objects and purpose of the Republican party, if I understand the emergencies of the case that brought that great party into existence, it was this very subject. The General Government, acting in Congress faithlessly to all that it had covenanted heretofore, had broken down every barrier, and violated every pledge it had given of freedom in any of our Territories. These covenants being overthrown, the Republican party arose to rescue freedom. Had there been no violation of the Missouri compromise, it is very probable there would have been no Republican party here. We did embody ourselves into a party, in order to rescue, protect, and defend, the free Territories of this country against the pollution of slavery. I have no concealments to make. There we now stand; this is our platform; on it we will stand forever.

But the Senator says that the slaveholders have an undoubted right to go with their slaves into the Territories of the United States, under the Constitution of the United States; and he claims that a decision of the Supreme Court gives them that warrant. There is no man who has more reverence for the decision of honest courts, when made on due deliberation upon matters of private right, and within their jurisdiction, than I have. I know how essential it is to the peace and welfare of every community that the decisions of courts settling the private rights of men in the last resort, even if they are believed to be wrong, must be lived up to and have effect. That has been my education—my principle; what I have held always, and hold to-day; but in just as much as I revere an honest court, keeping within its own jurisdiction, restraining itself from all political considerations, and adjudging the rights of men according to the law in its purity, so in exact proportion do I abhor and scout from me a corrupt judge, who, for any purpose, will impertinently reach over, outside, and beyond the case before him, and endeavor to advance the political cause of one party or another by decisions that he may pretend to make.

Sir, it is the same with Federal courts as with every other. The moment a Federal court transcends its legitimate authority, for the purpose of effecting some political object, its interference is impertinent; it is of no validity; and, with the high courts of Georgia, I say, I hold it in utter contempt. Yes, sir, [to Mr. Toombs,] I like the spirit of your courts, from which you are now so ready to depart. They stood up against what they considered a corrupt decision of this Federal court, and said they held it in utter contempt. That was right. Well, sir, if there ever was a holding on God's earth that would warrant any judge, private man, or Senator, in saying that he held it in utter contempt, it is what is called the Dred Scott decision, so manifestly a usurpation of power; so manifestly done in order to give a bias to political action, that no man, though he be a fool, can fail to see it.

What was the case? An old negro, whom age had rendered valueless, happens to fall in the way of the politicians at a period when it was thought exceedingly desirable that the question of Congressional authority over slavery in the Territories shall be tried, and Dred Scott prosecutes for his liberty in the Federal courts; and, by the way, after he had prosecuted his case through, and his liberty was denied him by the court, I believe the very next day the master gave him his liberty. He had served the purposes of the politicians, and they ought to have given him a pension for life for having been the John Doe of the transaction. I do not know of what authority the case may be, but its getting-up looks to me exceedingly suspicious. There was a concurrence of circumstances that very rarely happen of themselves. Old Dred Scott sued for his freedom, and a plea was put in that he, being a descendant of an African, and his ancestors slaves, he could not sue in that court; he had no right to be there, had no standing there. The court go on and argue themselves into the belief that either a man may be so monstrously low, or the court itself so monstrously high, that he cannot sue in its presence for his rights. I believe this is the first nation on God's earth that ever placed any mortal man, or anybody bearing the human form, on so low a level, or any court on so high a one, as that. But let this go. Dred Scott brought his suit. The plea in abatement was demurred to; the question arose upon that demurrer, and a majority of the court decided that Dred Scott, being a negro, a descendant of an African, and his ancestors having been slaves, he could not maintain a suit in that court, because he was not a citizen, under the law. Now, sir, I ask every lawyer here, was not there an end of the case? In the name of God, Judge Taney, what did you retain it for any longer? You said Dred Scott could not sue; he could not obtain his liberty; he was out of court; and what further had you to do with all the questions that you say were involved in that suit? Upon every principle of adjudication, you ought not to have gone further. No court has ever held it more solemnly than the Federal courts, that they will not go on to decide any more than is before the court, and necessary to make the decision; and every lawyer knows that if they do, all they say more is mere talk, and, though said by judges in a court-house, has just as much operation and effect as if it had been said by a horse dealer, in a bar-room, and no more. And yet we are told that we must follow the *dicta* of these packed judges—for they were packed, and I have

about as little respect for a packed court as I have for a packed jury—a majority of them interested, too, as I believe, in the very question to be decided; for, I believe, the majority who concurred in the opinion were all slaveholders, and, of course, if anybody was interested to give a favorable construction to the holders of that species of property, these men were interested in the question.

Strange as it may appear, those who complain of Northern aggression have not only every other department under their feet, but with less than one-third of the population of the North, you happen to have a majority of the Supreme Court on your side, and always have had. I will not say that that is the reason why the decisions of courts of late are magnified into such importance. Immaculate their decisions are now, it seems. The very party who, a few years ago, within the memory of us all, held that their decisions were of no effect whatever on governmental action, when coming in conflict with the views of the President or the co-ordinate branches of the Government, have turned round of late, and have found a virtue in that court that can ride triumphantly over every other department of this Government. It is a palpable heresy, and must be abandoned. The liberties of this nation cannot consist with the doctrine now set up on the other side of this Chamber with regard to your Supreme Court.

I do not want to go back to see what Jefferson and others said about it. I know the nature of man. I know, as they knew, that to arm this judiciary with a power, not only to decide questions between private individuals, but to affect the legislation of the nation, to affect the action of your President, to affect the co-ordinate branches of this Government, is a fatal heresy, that, if persisted in by a majority of the people, cannot result in any other than an utter consolidated despotism; and I am amazed that men who have had their eyes open, and who have held to other doctrines in better days, should, for any temporary purpose, heave overboard, and bury in the deep sea, the sheet-anchor of the liberties of this nation.

I say to my friends on the other side—for I call them friends for this purpose—we are all interested alike in this question. God knows, if you once have it established and acquiesced in by the people of this Union, that the *dicta* of the Supreme Court—a political court by its very constitution, yea, packed on this very subject, as every Senator here knows—are to be the laws binding on every other department, we have the meanest despotism that ever prevailed on God Almighty's earth. But I have no fears of it, sir. You may effect a temporary purpose by it; but a doctrine so absurd, so incompatible with the minds of the Anglo-Saxon race, so inconsistent with the great principles of free government, will never be permitted to stand.

In the Dred Scott decision—I will not call it a decision, but in this *dictum*, this talk of the judges, for that was all it was—they overturned every decision their own court had made for more than seventy years; they holding, prior to that time, that Congress had full and plenary power over the Territories of the United States. Judge Marshall so decided, and the court had followed his decision, and every other department of the Government was well satisfied. Therefore, this infallible court can overturn the most settled decisions of its own and of other courts, and nobody can question its acts! A strange doctrine that, that the sayings of men who were put upon the bench under the most questionable circumstances, packed for a particular decision, and not having a chance even to make that upon the question before them, should be the *ne plus ultra*, after they themselves have overturned all that have gone before them. This is a position that cannot outlive this generation.

Where did these judges find the power in the Constitution of the United States to carry slavery into the Territories? If they had anything to ground their *dicta* upon, they had the power to show it written in the Constitution of the United States; but there is no such thing there. I remember very well reading (for I was not here at that time) that in 1850 Mr. Calhoun set up this doctrine, and it was so extreme that he had no second in the Senate. He was challenged by Mr. Clay upon it. Mr. Clay told him he was amazed and astonished that any man should hold such a doctrine, and he asked him: "Where do you find your constitutional warrant for it?" and told him, at the same time, that it was more latitudinous than anything ever held by old John Adams and the Federal party at any period. Mr. Calhoun, I think, found no warrant in the Constitution; he did not deign to reply. Yet, within ten years, this doctrine has grown up into a great tree, so that some fowls lodge in the branches thereof. [Laughter.]

They find no warrant in the Constitution; they find none in legal logic or reason. It is said now that the Territories being the common property of the States, the citizens of each State have a right to go into them with any property that they perchance may have. I deny the postulate. These Territories do not belong to the States, as States. They belong to the people of the United States. Congress is the trustee for them; but no State can claim any portion of them. The States, as States, have nothing to do with them. Suppose the Senator from Illinois [Mr. DOUGLAS] owns a plantation in Mississippi, in his own right or that of his children, and he has slaves there working upon that plantation, while he is a resident of the State of Illinois. Suppose there is a Congressional prohibition saying that he cannot take his property into that new Territory. Let me ask these casuists now, which State is it whose

sovereignty is invaded; that where the Senator lives, or that where the negroes live? Can anybody tell me? State equality, they say, is not preserved. But the State equality of which State? Illinois, where the slaves are owned, is her sovereignty hewed down, or the sovereignty of the State of Mississippi, where the negroes hoe the Senator's corn and pick his cotton? There never has been a respectable argument for any such position as that.

May not the same ground be applied to other cases? Suppose we had annexed—as I presume we shall ultimately annex—the Fejee Islands to this nation. In those islands, the people not only enslave each other, but they actually kill and eat each other. Now, suppose a Senator from the State of Fejee should appear in this body; suppose that he should claim the right of his constituents to bring with them their chattels into any of our Territories, and claim the right of the law in that country to practice cannibalism upon them, that he might roast and boil them as well as enslave them. He would claim, if you did not permit this to be done, "that the State of Fejee 'has not equal rights with the other States of 'this Union; a gentleman owns his property; 'it is an undoubted law of my State that we 'may fatten men for the roast, and we have a 'right to bring them here for the same pur-'pose; and if you do not permit us to do so, 'we will pull down the columns of the Repub-'lic, laying it outspread in one universal ruin." [Laughter.] I suppose the Senator from Illinois [Mr. DOUGLAS] would say, "The Territo-'ries have a perfect right to vote cannibalism 'in or to vote it out; I do not care whether 'they vote it up or down; but they have the 'right, and shall be perfectly free to do it." [Laughter.] Another Senator would arise, and say the people of Fejee not only have the right to bring them in, but they have the right to be protected in doing so there under the laws of Congress. Another one says that Congress has no power to pass laws on that subject whatever; but the courts, which are now omnipotent in all things, may, without law, declare what the law is, and we must all bow down to it. There is a difference even on the other side as to these shades or colors of Congressional authority; but, nevertheless, you are all in for spreading slavery to the ends of the earth.

Take another case—one that is likely to occur a little sooner, perhaps. Suppose Brigham Young should come from the State of Utah, when it is a State, into Kansas, or any other Territory, and bring with him his forty wives, and the Territory has a law that a man shall have but one wife. Brigham says, "These 'are my property; yea, more than my prop-'erty; yea, they are forty ribs taken out of my 'body while I slept; I must bring them in 'here, or the State of Utah will not be on an 'equal footing with the other States of this 'Union."

Away with such logic. There is no guaranty in the Constitution of the United States for such a position as that. Our safety, Mr. President consists in keeping close to the Constitution. Whatever we claim, let us find the direct warrant for it there, or the necessary implication to carry out some other power that is manifestly granted. The moment we go astray from this, we are in the fog; we are in dispute; we endanger the harmony of our action, and it is done in this instance. In this great departure from the early principles of this Government, you have involved portions of the nation in almost irretrievable hostility to each other. Let us go back to the Constitution, and follow it.

Mr. President, I will notice one other position. Waiving all constitutional law on this subject—for we are not compelled to do all that we have a constitutional right to do—I will suppose, for the purposes of this argument, that you have authority to take your slaves into a Territory, and hold them there; still, is it expedient, is it just and proper to do it? This brings up a question which has been incidentally debated during this session several times. Originally, it now stands confessed here; the framers of our institutions, the fathers of the Republic, all, I believe, without a dissenting voice, (if there were any, I do not know it,) held that slaveholding was against common right, was against natural right, was wrong in itself, and therefore should not be cherished or encouraged.

Now, Senators say here, that the slaveholding States have reconsidered this subject with great deliberation, and they have found that this old view was wrong; that slavery is a normal condition; that it is a blessing to society; that it is the best state and condition that a man can be in, and therefore ought to be extended. That is the only issue which I wish to draw in upon this subject with any party, because I know that your determination now to extend slavery into the Territories arises from this new philosophy of yours. If you are right upon that, I will go with you. If you are right, let us extend slavery to the four winds of heaven; let us employ missionaries to preach the glories of slavery, and induce the whole world to divide itself, and one half become slaveholders, and the other half slaves.

Sir, I am glad to see this great question placed at last upon a solid foundation; for every man knows that no political principle can be based permanently on anything short of eternal justice and right. Now, I do not care for what the Senator from Georgia and others have told us, that slaveholding was the basis upon which society had been founded for thirty centuries. We, at least, have discovered that it is a sandy foundation. It is fast washing away; and in exact proportion to the advance of mankind in civilization and in knowledge, on all hands this old principle is deemed barbarous,

and is wearing away. Upon that issue, I will meet you; it is a fair one. If it is right, extend it; if it is wrong, let it die the death, as all error and falsehood must die. I hardly know how to meet this issue in argument; for I have been in the habit of believing, with the fathers of the Constitution, that liberty is the gift of God to every human being. With them, I have supposed it is self-evident, and incapable of illustration by argument. I would appeal from all your casuistry to the promptings of the human heart. Who within the sound of my voice would not say, with the immortal Henry, "Give me liberty, or give me death?" If there be any, let him speak. Who had not rather infinitely follow a friend or relation to the grave, than into the shambles of eternal slavery? Not a man. Human nature revolts at it.

I know it is said that the African is an inferior race, incapable of defending his own rights. My ethics teach me, if it be so, that this fact, so far from giving me a right to enslave him, requires that I shall be more scrupulous of his rights; but I know that, whether he be equal to me or not, he is still a human being; negroes are still men. Senators will bear me witness that there are thousands now in bondage who are much more white than black—yea, tens of thousands of such; but, whether white or black, I say again, they are still human; they are animated by the same hopes, they are afflicted with the same sorrows, they are actuated by the same motives, that we are. Like us, they may be deprived of every right; they may be treated like brutes; their souls may be ignored; you may whip, scourge, and trample them in the dust; but they will rise from your utmost degradation, and stand forth in the image of God, the conscious candidates of immortal life. This gives them a full assurance of their manhood, and stands as an eternal prophecy that they are not always to be slaves. It is part and parcel of human nature. It is implanted in every human soul, by the finger of God. You cannot eradicate it; and yet, while it remains, your institution cannot be secure.

There are other reasons enough to show that it is not the normal condition of man. Whence this tremulous perturbation of the whole South on this subject? Why this fear that their institution will be overturned by every breath? Why is it that you withhold from these men and women the knowledge of reading and writing? What mean your nightly patrols, that I see your laws provide for? What means this persecution of Northern men who go among you? What is the fear you have of this Helper book, that we have heard so much of? What means this robbery of the mails and censorship of the press through all the South? If slavery is the normal condition, do you fear that the handiwork of God will be overturned by these frivolous means? No, sir; never. It falsifies the pretence that it is a normal condition of mankind. Society in the North needs no such artificial props as these to sustain it. You may come up there; you may attack our institutions; we will invite you, wherever you please to come, to preach the glories of slavery as the normal condition of man, and our institutions will stand firmer than ever by the conflict. We fear no such thing. Why? Because, although the Senator from Virginia [Mr. HUNTER] said that slavery was the normal condition, and, if I understood him, that freedom was an experiment yet, and likely to come out second best, nevertheless everything around you shows the security of the North. The perfect contentedness of the North shows which is the normal and which the other condition. Look to the great Northwest, to which I belong. There is a white population to-day, northwest of the river Ohio, as great as that of all your slave States, so secure, so impassive, so conscious of their own strength, that they are an empire in themselves. I am here day after day, and my constituents ask nothing of me but to be let alone. Here we hear this clamor from the South about Southern rights, day after day, year after year, disturbing elements in our political progress constantly; and yet you hear nothing from the security of freedom and free labor in those regions. All this goes to show that slavery is not the normal condition of man—that it is an institution which has survived the exigencies of the times which permitted it to be established, and now lives on the bare sufferance of mankind.

I have nothing to say of slavery in the States. I do not wish to say, and would not say, a word about it, because I am candid enough to confess that I do not know what you can do with it there. I want no finger with it in your own States. I leave it to yourselves. It is bad enough, to be sure, that four millions of unpaid labor now is operating there, in competition with the free labor of the North; but I have nothing to say of that. Within your own boundaries, conduct it in your own way; but it is wrong. Your new philosophy cannot stand the scrutiny of the present age. It is a departure from the views and principles of your fathers; yea, it is founded in the selfishness and cupidity of man, and not in the justice of God. There is the difficulty with your institution. There is what makes you fear that it may, sooner or later, be overturned; but, sir, I shall do nothing to overturn it. If I could do it with the wave of my hand in your States, I should not know how to do it, or what you should do. All I say is, that, in the vast Territories of this nation, I will allow no such curse to have a foothold. If I am right, and slavery stands branded and condemned by the God of nature, then, for Heaven's sake, go with me to limit it, and not propagate this curse. I am candid enough to admit that you gentlemen on the

other side, if you ever become convinced, as I doubt not you will, that this institution does not stand by the rights of nature nor by the will of God, you yourselves will be willing to put a limit to it. You have only departed because your philosophy has led you away. Sir, I leave you with the argument.

And now, Mr. President, in conclusion, I would ask Senators what they find in the Republican party that is so repulsive to them that they must lay hold of the pillars of this Union, and demolish and destroy the noblest Government that has ever existed among men? For what? Not certainly for any evil we have done; for, as I said to start with, you are more prosperous now than you ever were before. What are our principles? Our principles are only these: we hold that you shall limit slavery. Believing it wrong, believing it inconsistent with the best interests of the people, we demand that it shall be limited; and this limitation is not hard upon you, because you have land enough for a population as large as Europe, and century after century must roll away before you can occupy what you now have. The next thing which we hold, and which I have not time to discuss, is the great principle of the homestead bill—a measure that will be up, I trust, this session, and which I shall ask to press through, as the greatest measure I know of to mould in the right direction the Territories belonging to this nation; to build up a free yeomanry capable of maintaining an independent republican Government forever. We demand, also, that there shall be a protection to our own labor against the pauper labor of Europe. We have always contended for it, but you have always stricken it down.

These are the measures, and these are the only measures, I know of that the great Republican party now stand forth as the advocates of. Is there anything repulsive or wrong about them? You may not agree to them; you may differ as to our views; but is there anything in them that should make traitors of us, that should lead a man to pull down the pillars of his Government, and bury it up, in case we succeed? Sir, these principles for which we contend are as old as the Government itself. They stand upon the very foundation of those who framed your Constitution. They are rational and right; they are the concessions that ought to be made to Northern labor against you, who have monepolized four millions of compulsory labor and uncompensated labor, in competition with us.

There is one thing more that I will say before I sit down; but what I am now about to propose is not part and parcel of the Republican platform, that I know of. There is in these United States a race of men who are poor, weak, uninfluential, incapable of taking care of themselves. I mean the free negroes, who are despised by all, repudiated by all; outcasts upon the face of the earth, without any fault of theirs that I know of; but they are the victims of a deep-rooted prejudice, and I do not stand here to argue whether that prejudice be right or wrong. I know such to be the fact. It is there immovable. It is perfectly impossible that these two races can inhabit the same place, and be prosperous and happy. I see that this species of population are just as abhorrent to the Southern States, and perhaps more so, than to the North; many of those States are now, as I think, passing most unjust laws to drive these men off or to subject them to slavery; they are flocking into the free States, and we have objections to them. Now, the proposition is, that this great Government owes it to justice, owes it to those individuals, owes it to itself and to the free white population of the nation, to provide a means whereby this class of unfortunate men may emigrate to some congenial clime, where they may be maintained, to the mutual benefit of all, both white and black. This will insure a separation of the races. Let them go into the tropics. There, I understand, are vast tracts of the most fertile and inviting land, in a climate perfectly congenial to that class of men, where the negro will be predominant; where his nature seems to be improved, and all his faculties, both mental and physical, are fully developed, and where the white man degenerates in the same proportion as the black man prospers. Let them go there; let them be separated; it is easy to do it. I understand that negotiations may easily be effected with many of the Central American States, by which they will take these people, and confer upon them homesteads, confer upon them great privileges, if they will settle there. They are so easy of access that, a nucleus being formed, they will go of themselves and relieve us of the burden. They will be so far removed from us that they cannot form a disturbing element in our political economy. The far-reaching sagacity of Thomas Jefferson and others suggested this plan. Nobody that I know of has found a better. I understand, too, that in these regions, to which I would let them go, there is no prejudice against them. All colors seem there to live in common, and they would be glad that these men should go among them.

I say that I hope this great principle will be engrafted into our platform as a fundamental article of our faith, for I hold that the Government that fails to defend and secure any such dependent class of freemen in the possession of life, liberty, and happiness, is, to that extent, a tyranny and despotism. I hope, after that is done, to hear no more about negro equality or anything of that kind. Sir, we shall be as glad to rid ourselves of these people, if we can do it consistently with justice, as anybody else can. We will not, however, perpetrate injustice against them. We will not drive them out,

but we will use every inducement to persuade these unfortunate men to find a home there, so as to separate the races, and all will go better than it can under any other system that we can devise. I say again, I hope that the demands of justice and good policy will be complied with; and by the consent of all, this will be done; and if it is not done with the assent of all, I do hope it will be part and parcel of the great Republican platform; for I think it consists with right, with justice, and with a proper regard for the welfare of these unfortunate men.

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